

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.991 of 2017

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Puneet Agarwal @ Punit Agarwal Son of Indu Bhushan Agarwal @ Arun Agarwal Resident of Mohalla- J-13/93, Plot no. 11, Cotton Colony Chanka Ghat, Jaitpur, P.S. Chaukaghat, District- Varanasi U.P.

... .. Appellant/s

Versus

Ankita Agarwal @ Ankita Jain @ Ankita Wife of Punit Agarwal, Daughter of Deepak Kumar Jain resident of Mohalla- Mahajan toli, No. 1, P.O. Ara, P.S. Ara Town, District- Bhojpur (Bihar).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Kundan Kumar Mishra, Advocate Mr. Gopal Govind Mishra, Advocate Mr. Md. Kamran, Advocate
For the Respondent/s	:	Mr. Sudhir Kumar Singh, Advocate Mr. Priyesh Kumar, Advocate Mr. Saharsh Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 05-05-2026

1. In a suit for divorce, registered as Matrimonial Case No. 161 of 2006 in the Family Court of learned Principal Judge, Bhojpur at Ara, the respondent/plaintiff got the decree of divorce against her husband (appellant herein) and the marriage solemnized between them on 3rd of February, 2012 was declared to be dissolved.

2. The husband was directed to give permanent alimony at the rate of Rs. 20,00,000/- (twenty lakhs) to the petitioner and Rs. 5,00,000/- (five lakhs) to the son of the



petitioner, total being Rs. 25,00,000/- (twenty five lakhs) in favour of the wife (respondent herein).

3. The instant appeal challenges the order/decreed of permanent alimony, passed by the Trial Court, by the husband.

4. Therefore, the scope of the appeal is limited to adjudication as to whether the learned Trial Judge was justified in arriving at the decision: - (a) whether the wife / respondent herein is entitled to get permanent alimony from her husband ; and (b) if so, whether the amount of alimony is just, proper and sufficient.

5. After admission of the appeal, both parties were directed to file respective affidavits of up to date assets and liabilities. This Court took several attempts to amicably settle the dispute, fixing an agreed amount of permanent alimony. However, the parties failed to reach ad idem, so the instant appeal was heard on merit on the question of permanent alimony.

6. We propose to discuss respective affidavits of assets and liabilities in the light of the provision contained in Section 25 of the Hindu Marriage Act and the recent pronouncements by the Hon'ble Supreme Court. Section 25 of



the Hindu Marriage Act runs thus: -

*“25. Permanent alimony and maintenance. - (1) Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall [***] pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant [, the conduct of the parties and other circumstances of the case], it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.*

(2) If the Court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just.



(3) If the Court is satisfied that the party in whose favour an order has been made under this section has remarried or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, [it may at the instance of the other party vary, modify or rescind any such order in such manner as the Court may deem just.]”

7. In Nishi Kant Singh @ Amit Kumar Singh v. Sunita Devi (Miscellaneous Appeal No. 147 of 2017) decided on 24th of July, 2025, a Coordinate Bench of this Court held as hereunder: -

“20. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; period of



marriage and such other similar factors. The grant of permanent alimony should be directed after assessing the social, financial status of both the parties and also after appreciating the burden of liabilities incurred either on husband or wife in light of Hon'ble Supreme Court decision in the case of Rajnesh vs. Neha reported in (2021) 2 SCC 324 read with Aditi @ Mithi vs. Jitesh Sharma reported in (2023) SCC OnLine SC 1451 read with Pravin Kumar Jain vs. Anju Jain reported in 2024 SCC OnLine SC 3678.

21. Be that as it may, Section 25 of the 1955 Act itself envisages that the wife can initiate proceedings for grant of permanent alimony even after the decree of divorce. Therefore, the court does not become functus officio with the passing of the decree and continues to have jurisdiction to award alimony even thereafter. “

8. We have duly considered the affidavits of assets and liabilities filed by both the appellant and the respondent in the instant appeal. The parties have also filed supplementary affidavits to supplement their claim and counter claim of permanent alimony.



9. The learned Advocate on behalf of the husband – appellant has strenuously argued that after matrimonial discord was started between the parties, maternal uncle of the respondent lodged a complaint against the appellant in his office making false allegation of cruelty as well as other allegations which resulted in termination of his service. The appellant had to leave the country and went to Dubai. He has been working as private Chartered Accountant in Dubai. According to him, the appellant earns Rs. 1,35,000/- per month to Rs. 1,50,000/- per month approximately.

10. Secondly, it is submitted by him that after decree of divorce being passed in favour of him, the appellant solemnized another marriage on 11th of November, 2020. In the said wedlock, his wife gave birth to a special child on 21st of July, 2021, for which the appellant incurs huge liability in respect of medical treatment of the child.

11. Further, it is submitted by the learned Advocate appearing on behalf of the appellant that the appellant also has to look after and maintain his old aged ailing parents.

12. Learned counsel for the appellant also submits that due to continuance and malice intervention of the respondent in the professional life of the appellant, he has not



been able to work regularly and his income was reduced to Rs. 44,000/- per month during the financial year 2014-2015 and Rs. 12,500/- only during the financial year 2015-2016.

13. Contrary to the appellant financial position, respondent has handsome and steady flow of income like to her husband's income and she has no dependents to look after anybody as her parent are rich businessmen, established in Ara in the district of Bhojpur and the son of the parties is also living with his grand parents.

14. The learned counsel appearing on behalf of the appellant also takes us to the averments made by the appellant to show steady monthly income of the respondent. The respondent herself stated that she works in some non-government organization and ears Rs. 60,000/- to Rs. 80,000/- per month. It is also contended by the appellant that the respondent maintains multiple bank accounts in HDFC Bank, State Bank of India and Andhra Bank. She has also considerable amount of fixed deposits and other sources of money kept in some undisclosed account linked to her mobile no. She has also multiple deposit account across various banks.

15. She resides currently in Panchkula near



Chandigarh in her own house independently. It is stated by the appellant that the respondent works as Tarrot Card Reader and Healor, catering to both international and domestic plants as consultants and wellness guide. She is an author of book, titled "Victim-hood to Victory-hood". She is a social media influencer and brand promoter. She has also professional ties with Bolloywood industry and earns good amount of money by lending her voice for dubbing assignments in international films. Under such factual backdrop, the respondent having independent source of income is not entitled to get permanent alimony.

16. Learned Advocate appearing on behalf of the appellant, in support of his contention refers to a decision of the Hon'ble Supreme Court in *Rinku Baheti v. Sandesh Sharda*, reported in **2024 SCC OnLine SC 3801**. In the said report, the Hon'ble Supreme Court considered the factual backgrounds of the dispute between the parties and observed that in respect of a marriage, which lasted for a short duration of only one year, alimony must be mortised. Secondly, it was also observed in the aforesaid decision that the wife's own earning capacity and financial background must be assessed before granting permanent alimony. Permanent alimony is not



meant to create a windfall for one spouse.

17. The learned Advocate for the appellant also refers to a decision of the Division Bench of the Delhi High Court in ***Rita Raj v. Pabitra Roy Chaudhuri***, reported in **2025 SCC OnLine Del 6525**. Paragraph No. 81, 82, 85 and 87 of the said judgement is relevant and are quoted below:

“81. The Hon'ble Supreme Court in Parvin Kumar Jain v. Anju Jain¹⁷, while considering the aspect of permanent alimony, laid down guiding principles. The relevant portion of the judgment reads as follows:

“38. This Court in Rajnesh v. Neha, (2021) 2 SCC 324, provided a comprehensive criterion and a list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, with specific emphasis on permanent alimony. The same has been reiterated by this Court in Kiran Jyot Maini v. Anish Pramod



Patel, (2024) 13 SCC 66. The primary objective of granting permanent alimony is to ensure that the dependant spouse is not left without any support and means after the dissolution of the marriage. It aims at protecting the interests of the dependant spouse and does not provide for penalising the other spouse in the process. The Court in these two judgments laid down the following factors to be looked into:

38.1. Status of the parties, social and financial.

38.2. Reasonable needs of the wife and the dependant children.

38.3. Parties' individual qualifications and employment statuses.

38.4. Independent income or assets owned by the applicant.

38.5. Standard of life enjoyed by the wife in the matrimonial home.

38.6. Any employment sacrifices made for the family responsibilities.

38.7. Reasonable litigation costs for a non-working wife.

38.8. Financial capacity of the



husband, his income, maintenance obligations, and liabilities.

39. These are only guidelines and not a straitjacket rubric. These among such other similar factors become relevant.”

82. The provision under Section 25 is fundamentally equitable in nature and aims to secure financial justice between spouses, ensuring that a party lacking independent means of subsistence is not left destitute following the dissolution of marriage. However, the grant of such relief is not automatic; it is contingent upon proof of genuine financial necessity and equitable considerations.

85. Judicial discretion under Section 25 cannot be exercised to award alimony where the applicant is financially self-sufficient and independent, and such discretion must be exercised properly and judiciously, based on the record, the relative financial capacities of the parties, and the absence of any material demonstrating economic vulnerability on the part of the Appellant.

87. It is a settled principle that permanent alimony is intended as a measure of social justice and not as a tool for enrichment or equalizing the financial status



of two capable individuals. The law requires that the applicant demonstrate a genuine need for financial assistance. In the present case, the Appellant's position as a senior government officer, her steady and substantial income, and the absence of dependents collectively establish that she is fully capable of maintaining herself. No evidence of financial incapacity, duress, or other compelling circumstances has been presented to justify judicial intervention."

18. The learned Advocate for the respondent, on the other hand, submits that the respondent was essentially a housewife. She is compelled to work in some private organizations for upliftment of poor and downtrodden people and on the basis of her work, she earns Rs. 60,000/- to 80,000/- per month. She started working and earning money since 2021. In support of her income, she has filed income tax return. The income tax return for the assessment year 2024-2025 assessed that her total income was Rs 9,86,160/- per annum. Thus, during the assessment year 2024-2025, she earned approximately Rs. 80,000/- per month.

19. The respondent has stated annual expenditure of the son of the parties, which she bears herself as well as with the help of her parents. It shows that the son of the parties is



now aged about 13 year. He was admitted to Mount Litera Zee School at Ara when he was four years old. His admission fee was Rs. 50,000/- at the relevant point of time. A sum of Rs. 12,350/- per year is required to be deposited to the school for enrollment of admission. Tuition fee of the school is at the rate of Rs. 4,200/- per month, total being Rs. 50,400/- per annum. His mother spends Rs. 20,000/- per month for his private tuition. For games and sports, summer camp / vacation, the entertainment, pocket money etc., another Rs. 8,000/- is spent. A sum of Rs. 22,800/- is spent per year at the rate of Rs. 1,900/- per month for transportation. The respondent has filed the documents relating to the expenditure of his son in his studies. It is claimed by the respondent that the said amount would certainly be increased with the advancement of age of the son of the parties.

20. The learned Advocate appearing for the respondent further contends that one of us, sitting in revisional jurisdiction, passed an order in Cr. Revision No. 734 of 2021, affirming the order passed under Section 29 of the Protection of Women from Domestic Violations Act by the learned Jurisdictional Magistrate, directing the husband to pay monetary allowance at the rate of Rs. 25,000/- per month (Rs.



15,000/- for the respondent and Rs. 10,000/- for the child). As on this date, a sum of Rs. 13,60,000/- is due and the appellant after long persuasion and strict order passed by this Court only paid Rs. 5,000/- to the respondent.

21. Learned counsel for the respondent also submits that the appellant failed to produce any document in support of his monthly income. He only made and averments that he earns Rs. 1,35,000/- to Rs. 1,50,000/- per month working as free lancing Chartered Accountant in Dubai. It is contended by him that both salary and professional fee structure of an employee or private practitioner working in Dubai is much higher than India. The appellant has suppressed his income which he earns in Dubai.

22. Having heard the learned counsels for the parties and considering the decisions relied on by the appellant, we are inclined to state, at the outset, that income, property in hand, living expanses and even circumstances of each couple in each and every case may vary. So is the quantum of maintenance and its fixation is often left at the discretion of the Court. However, even though it is the discretion of the Court, there are some factors that can gradually effect the amount of maintenance, awarded under



Section 25 of the Hindu Marriage Act. They are: - (i) Income and property of the parties; (ii) Capacity of income; (iii) Custody of children; (iv) Dependents on the spouse; (v) Status of the parties; (vi) Conduct of the parties; and (vii) "Other circumstances", which has been stated in Section 25 of the Hindu Marriage Act, but has not been defined or described.

23. We obviously concur with the observation by the Division Bench of the Delhi High Court in the case of Rita Raj (supra) that Section 25 of the Hindu Marriage Act is fundamentally equitable in nature and aims to secure financial justice between spouses ensuring that a party lacking independent means of subsistence is not left destitute following the dissolution of marriage. However, the grant of such relief is not automatic. It is contingent upon proof of genuine financial necessity and equitable consideration. Bearing above principle in mind, let us now consider the financial condition of the respondent to come to a finding as to whether she is at all entitled to get any permanent alimony under Section 25 of the Hindu Marriage Act.

24. We shall not commit any wrong, if we hold the respondent's monthly income at the rate of Rs. 80,000/- per month. This is on the basis of the copy of income tax return



which she filed for the assessment year 2024-2025. Custody of the minor child of the respondent is with her, though he has been staying in Ara in the district of Bhojpur with his grand parents. It is found from the documents annexed with the affidavit of assets and liabilities filed by the respondent that a sum of Rs. 30,000/- to 35,000/- is being spent per month for the academic and other purposes of the son of the parties.

25. If the said sum is deducted from Rs. 80,000/-, Rs. 45,000/- is left for the respondent to maintain her livelihood.

26. The respondent's stays in Panchkula near Chandigarh. She is the ex-wife of a Chartered Accountant, who used to earn handsome money in this country. He is now working in Dubai though he has stated that he does not earn more than 1,50,000/-, no document has been filed in support of his claim.

27. It is no longer res integra that a wife is entitled to get at least 1/3 (one third) of the total income of her husband. One third of 1,50,000/- is Rs. 50,000/- per month and Rs. 6,00,000/- per annum. The appellant himself states in his supplementary affidavit filed on 20th of January, 2025 that he is aged about 42 years on the date of swearing the affidavit.



Therefore, in 2026, he is aged about 43 year. If the amount of Rs. 6,00,000/- s multiplied by 17, considering appellant's length of work up to 60 years, then the amount of permanent alimony comes to Rs. 1,02,00,000/- (one crore and two lakhs). The Trial Court directed the appellant to pay Rs. 25,00,000/- towards one time permanent alimony. The said sum is Rs. 77,00,000/- less than what the respondent ought to have claimed. Though, the Trial Court did not assign any reason in support of fixation of permanent alimony, this must come to the mind of the Trial Court that the respondent has independent earning.

28. Thus, considering all the facts and circumstances and the affidavits filed by both the parties, depicting their assets and liabilities, this Court is of the view that the amount of permanent alimony fixed by the Trial Court is not at all excessive or unjust considering the status of the respective parties.

29. This Court is not in a position to enhance the amount of permanent alimony on the basis of the findings arrived at by this Court in the foregoing paragraphs in the absence of any cross appeal by the respondent claiming permanent alimony at a higher rate than what has been



allowed by the Trial Court.

30. For the reasons stated above, we do not find any merit in the instant appeal.

31. The order / decree with regard to the permanent alimony passed by the learned Principal Judge, Family Court, Ara in Matrimonial Case No. 161 of 2016 is affirmed.

32. The appellant is directed to make payment of the said amount within a period of 90 days from the date of this judgement, failing which the appellant is at liberty to take steps to execute the decree.

(Bibek Chaudhuri, J)

Chandra Shekhar Jha, J: - I agree.

(Chandra Shekhar Jha, J)

skm/-

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